

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT
OF MISSISSIPPI JACKSON DIVISION

In Re:

WAREHOUSE 86, LLC, Case No. 08-03423-EE
DEBTOR, Chapter 11
SCK, INC. AND RADIOSHACK CORPORATION
PLAINTIFFS

Adv. Pro. No. 09-00139-EE

VERSUS

WAREHOUSE 86, LLC

ORIGINAL

DEFENDANT

DEPOSITION OF JAIME CABALLERO

APPEARANCES NOTED HEREIN

DATE: MAY 26, 2010

PLACE: BENNETT LOTTERHOS SULSER & WILSON

188 EAST CAPITOL STREET

JACKSON, MISSISSIPPI

TIME: 8:40 a.m.

AMANDA M. WOOTTON, CSR, RPR

AW REPORTING

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EXHIBIT
ONE

1 of a crime other than a traffic thing?

2 A No.

3 MR. FREY: Off the record.

4 (Off the record.)

5 MR. FREY: (Continuing.)

6 Q Tell me what you did briefly, sir, to
7 prepare for the deposition.

8 A I talked with the attorneys, looked
9 over some documents, some invoices mainly that
10 we paid out.

11 Q Invoices that RadioShack paid?

12 A Yes.

13 Q Okay. What were they for?

14 A I don't have them in front of me, but
15 they were payments, I believe, made to GE. Do
16 you have those available or --

17 Q I may have one. We'll come to that.

18 A Okay.

19 Q I'm really trying to find out what you
20 recall you looked at.

21 A Just a few of the invoices that you
22 may have or you should have.

23 Q All right. Things that RadioShack
24 paid to GE?

25 A To GE and -- I don't recall. I'll

1 Q I'm sorry. Other than that, what?

2 A That's basically all I handed over, a
3 few of the invoices that I had readily available
4 in my file. So, yes, I did turn over everything
5 I had to my attorney.

6 Q Well, tell me what it was you were
7 looking for when you say "everything I had."

8 A Well, to be honest with you, I didn't
9 know what I was looking for. The attorney asked
10 me to give everything I had on my file and I
11 knew that I had a few of the invoices in there,
12 and I just turned those over. So I didn't spend
13 a lot of time looking myself. It's just some
14 files I've accumulated over a period of time.

15 Q Well, do you have a file on Warehouse
16 86? Do you have a file on this Warehouse? Do
17 you have a file on the sublease? How do you do
18 that?

19 A I have a file on Warehouse 86, which
20 I've turned over.

21 Q All right. And how big is it?

22 A Maybe -- I didn't have much -- many
23 files. It was a few invoices. Maybe eight
24 pages found.

25 Q Did you see if anybody else had any

1 files?

2 A I didn't, no.

3 Q Do you know if anybody at either
4 company looked for any other files?

5 A I don't know.

6 Q Okay. Well, there's three topics that
7 you're here to address and the second one is the
8 company's efforts to locate documents related to
9 the case. Have you now told me everything you
10 know about that?

11 A I've given all my files over to my
12 attorney, yes.

13 Q Correct. And I've also asked do you
14 know if anybody else did anything.

15 A I believe my attorney did, yes.

16 Q Okay. But you personally, can you
17 tell me what was done at the company to look for
18 documents?

19 A I can't.

20 Q Okay. What about --

21 MR. FREY: Well, before we leave
22 that, can we locate in the documents
23 that y'all have produced this
24 gentleman's file?

25 MR. WATT: I can't -- no. I

1 include the ones you just called off --

2 A Yes.

3 Q -- right?

4 Any others?

5 A I believe that Exhibit 1 that you
6 handed me and took back.

7 Q Yeah. The Notice of Deposition?

8 A Yeah. The Notice of Deposition.

9 Q All right. So besides looking at the
10 Notice of Deposition and these few pages that
11 made up your file and, of course, talking to
12 your lawyers which I'm not asking you about, did
13 you do anything else to prepare for the
14 deposition?

15 A No.

16 MR. WATT: One second.

17 (Off the record.)

18 A Sorry, Bob. I did look at a few other
19 items. We skimmed through McLarens Young's
20 report on the conveyor system.

21 MR. FREY: (Continuing.)

22 Q Let me interrupt. Whatever other
23 documents you looked at were in these two
24 notebooks; is that fair?

25 A Well, I haven't looked at the entire

1 was required, but that's not our issue here?

2 A I don't believe so.

3 Q Okay. And then property insurance,
4 which is at issue, right?

5 A Yes.

6 Q Okay. And your department had
7 somebody whose job, at least in theory, it was
8 to make sure that Warehouse 86 got the right
9 insurance?

10 A Ask that again, please.

11 Q Yeah, yeah. The sublease asked
12 Warehouse 86 to get a certain kind of insurance,
13 right?

14 A Yes.

15 Q Okay. And there's got to be somebody
16 in your shop that follows that and makes sure
17 they did.

18 A Yes. There should have been, yes.

19 Q Okay. Do you know whether they did
20 that?

21 A I do not.

22 Q Okay. Have you looked to see if they
23 did?

24 A I did not, no.

25 Q Okay. Back when you were looking

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1 through your file, did you look for any e-mails?

2 A No, I didn't.

3 Q Have you done that since then?

4 A No.

5 Q Leaving aside the specific case and
6 just talking about how RadioShack and SCK
7 normally do business, would there normally be
8 somebody to make sure that the tenant got their
9 insurance?

10 A In the risk management or in real
11 estate department when you clarify or just --

12 Q Yeah. Thank you. Anywhere, actually.

13 A Anywhere. Let me answer that by
14 saying there should be.

15 Q Okay.

16 A Yeah.

17 Q And when it works the way it should,
18 is that the risk management department or the
19 real estate department?

20 A The real estate generally gives it to
21 the risk management department and risk
22 management will contact the broker and discuss
23 and make sure that the limits are adequate, and
24 then approve or disapprove or ask for more
25 limits.

1 Q And the limits might be inadequate,
2 but there might be some other problem, too,
3 right?

4 A Perhaps.

5 Q And my point is they're going to look
6 at the limits, but they're going to look at
7 other things, too.

8 A Oh, yeah.

9 Q Okay. And they're going to be make
10 sure that whatever's been tendered satisfies
11 them, and if it doesn't, they'll tell the broker
12 they want something else?

13 A That's right.

14 Q All right. But you don't know if that
15 process actually happened in this case?

16 A I don't.

17 Q And who would we ask to find that out?

18 A I think I'm the best person you can
19 ask --

20 Q Okay.

21 A -- to find that out.

22 Q All right. Is there another file we
23 would look in?

24 A I don't know. You know, this is a
25 situation where we're not -- RadioShack is not

1 in to subleasing buildings. This is kind of a
2 one-of situation.

3 Q Do you know how far back y'all's
4 e-mails go?

5 A Pertaining to --

6 MR. WATT: Objection.

7 MR. FREY: I'm sorry. Help me
8 out.

9 MR. WATT: Just quantify that. I
10 mean, what area?

11 MR. FREY: Okay. That's fair.

12 MR. FREY: (Continuing.)

13 Q The e-mails, if there were any, that
14 had to do with approving or disapproving the
15 insurance that Warehouse 86 offered, okay, would
16 they still be around?

17 A If there were any, I'm sure -- well, I
18 don't know.

19 Q Yeah. Because, you know, things don't
20 last forever.

21 A Well, they don't, so I don't know.

22 Q All right. And who would we ask to
23 find out how far back that e-mail retention
24 goes?

25 A Ask our attorney.

1 Q How did you find out?

2 A I don't recall exactly how we found
3 out, but I do remember watching it on the news
4 as the reporters were discussing it on CNN, I
5 believe.

6 Q Okay. And what did -- let me go back
7 and pin something down. I don't want to be
8 unduly wordy. I was going to say what did
9 RadioShack and SCK do about it, but is it fair
10 to say that at this point, SCK is not involved
11 and it's RadioShack's risk management?

12 A That's right.

13 Q All right. So I'll ask. What did
14 RadioShack do?

15 A At that point, we didn't do anything.
16 Our director of risk management at that time
17 felt that it was a problem or a claim between
18 Warehouse 86 and IDI, therefore, RadioShack
19 didn't get involved initially at all.

20 Q And the director's name?

21 A Judy McCampbell.

22 Q And is she still with the company?

23 A No, she's not.

24 Q Where is she?

25 A I don't know.

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1 Q Well, where was she when last seen?

2 A At RadioShack.

3 Q Well, do you know where she was going?

4 A Oh, she -- she was laid off.

5 Q Okay. When was that?

6 A I don't know.

7 Q Who is in her place now?

8 A We don't have anyone in her place now.

9 Q So that was the director of risk
10 management?

11 A Director of risk management.

12 Q How does that fit in the chart with
13 you?

14 A I would normally report to the
15 director.

16 Q Okay. So there's just a layer missing
17 now?

18 A There is a layer missing.

19 Q Okay. All right. So she thought we
20 don't need to do anything, Warehouse 86 and IDI
21 will handle this?

22 A It was a claim between the two.

23 Q Okay. We don't have a dog in this
24 fight?

25 A We don't.

1 Q All right. Now, was that -- how did
2 you learn that? Was that something you read,
3 something you heard?

4 A It was something she told me.

5 Q Okay. When did you talk to her about
6 it?

7 A Immediately when we found out and we
8 were watching it on TV.

9 Q Okay. So -- okay. All right. Well,
10 what happened next from RadioShack's point of
11 view?

12 A Judy McCampbell handled the rest of
13 the situation until she left the company.

14 Q When did she leave?

15 A Bob, I can't give you an exact date,
16 but I believe it was August '09.

17 Q Okay. And do you know what she did?

18 A I do not.

19 Q It wasn't part of your job to --

20 A It wasn't.

21 Q -- be interfacing with her about what
22 she was doing?

23 A That's right.

24 MR. WATT: Let him finish the
25 question before you begin answering.

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1 MR. FREY: Yeah. I'm sorry.

2 I'll try and do the same out of
3 respect for our court reporter.

4 MR. FREY: (Continuing.)

5 Q Have you made any attempt to find
6 Judy's files or e-mails so you can see what she
7 was doing?

8 A I have not.

9 Q Who took over after she left whatever
10 was left to be done on the warehouse situation?

11 A I believe our attorney, Jim Spisak
12 did.

13 Q And do you know what was left to be
14 done at that point?

15 A I do not.

16 Q I know somebody had to draw the short
17 straw and come here today, and you've explained
18 your position and how that fits in. Did you
19 have any personal involvement in this?

20 A What do you mean?

21 Q Well, like you told me that you and
22 Judy were watching the TV and she said, hey,
23 that's their problem, that's IDI and Warehouse
24 86, right?

25 A Yes.

1 Okay. Start with the money paid for
2 the conveyer. Tell me how much it was and why
3 you should get it back here.

4 A The payment to GE Capital for the
5 conveyer system, \$1,064,361.78. It was
6 completely destroyed in the tornado. And as
7 stated in the sublease, we should be covered
8 through Warehouse 86 for all damages.

9 Q All right. I'm not sure I got the
10 figure. One million?

11 A One million 64.

12 Q 064 then.

13 A \$361.78.

14 Q Right. Thanks.

15 And how was that number arrived at? I
16 know that's what you paid GE. How did y'all
17 know how much to pay it?

18 A I don't recall. We got an invoice
19 from GE.

20 Q Okay.

21 A I don't know how they calculate it. I
22 don't...

23 Q Did you make any effort to see that
24 they calculated the right amount?

25 A I wasn't involved in the case at that

1 time.

2 Q Okay. Who would know whether
3 RadioShack made an effort to see that 1,064,000
4 figure was correct?

5 A I guess, Bob, that would have to had
6 to have been Judy McCampbell.

7 Q All right. And explain to me -- you
8 said the sublease gives y'all a claim for that.
9 Can you help me with that?

10 A I'd have to look at the sublease.

11 Q I think we can view that.

12 THE WITNESS: Bob, I would really
13 like to take a break.

14 MR. FREY: Yes, sir.

15 (Off the record.)

16 MR. FREY: (Continuing.)

17 Q We're going to look at the sublease.
18 Let me hand you a big stack. And, again, I'm
19 not going to clutter up the record by marking
20 it, but what it is is the attachments to y'all's
21 complaint. And they have identification at the
22 top. It looks to me like the very first one is
23 the sublease. I just want to see if that's your
24 impression, as well.

25 A Yes. I'm familiar with this.

1 Q All right. Now, the first thing I
2 want to ask is how far back in that stack does
3 the sublease and any attachments to the sublease
4 go? The sublease has some attachments is my
5 understanding.

6 A Yes.

7 Q It's got like a Schedule B. It may
8 include the master lease. Do you know the
9 answer?

10 A I do not.

11 Q All right. Fair enough. Then let's
12 just talk about the part you know, which is the
13 sublease itself.

14 A Well, I don't -- I'm not --

15 Q Not an expert on that.

16 A -- covered in reading subleases.

17 Q Fair enough.

18 Well, anyway, though, as I say, you
19 drew the short straw, so you're here to talk for
20 the company. Help me understand the company's
21 claim to the 1,064,000 paid to GE for the
22 conveyor system.

23 A I'm sorry, Bob. I guess I don't
24 understand your question. I just told you I'm
25 not an expert in reading leases and --

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1 Q All right. Well, let's not look at
2 the lease then.

3 A Okay.

4 Q I don't want to be unfair with you.
5 It's my understanding that y'all wrote
6 four checks that you were personally involved
7 with, and each of those you think you ought to
8 get reimbursed for.

9 A Yes.

10 Q All right. And I just want to
11 understand why. What's the basis for that? And
12 I'm starting with the amount paid to GE for the
13 conveyer system. The reason I mentioned the
14 sublease is I thought you did, but if you don't
15 want to talk about the sublease, that's fine.

16 A Well, I'm not qualified enough to
17 really talk about the sublease. It's not my
18 area.

19 Q All right. See if this is fair: It's
20 your understanding there's something in the
21 sublease that the lawyers can deal with that
22 adds up to you should get reimbursed for the
23 money paid to GE; is that fair?

24 A Yes.

25 Q All right. Now, the conveyer system,

1 is that the same or different, or do you know,
2 from what's been called "leased equipment"?

3 A I don't know.

4 Q All right. Okay. Just real quickly
5 because I think I'll -- I know what you're going
6 to say, but as to the half million dollar
7 deductible that Radio Shack paid to IDI, okay,
8 it's your understanding that y'all have a right
9 to be reimbursed for it, but you're not prepared
10 to describe the ins and outs of that?

11 A That's right.

12 Q Okay. And the same is true of the
13 money paid to InMotion for dismantling the
14 conveyer?

15 A Yes.

16 Q And the same is true of the money paid
17 to Dematic for whatever it was paid for?

18 A Yes.

19 Q All right. Now, do you know what
20 else, if anything, either RadioShack or SCK are
21 trying to get out of this lawsuit?

22 A You know, I don't have my notes in
23 front of me, but I do recall a security system
24 that we had installed that I didn't pay a bill
25 out. But however, we took it off our books, so

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1 we wrote it off after the tornado.

2 Q All right. Do you know what amount
3 you wrote off?

4 A I don't recall, Bob.

5 Q But the amount you wrote off is what
6 you'd be seeking reimbursement for?

7 A Yes, as well.

8 Q And, again, the --

9 MR. WATT: Objection.

10 MR. FREY: I'm sorry. What's --
11 help me here.

12 MR. WATT: Well, I think that's
13 kind of vague in what that means
14 because there are two different
15 numbers. There's a depreciated amount
16 and there's a value, so there's a book
17 value and there's a replacement value.

18 MR. FREY: All right. Well, I
19 don't want to put either of you on the
20 spot, but if you'll just tell me which
21 one.

22 MR. WATT: We're seeking the
23 replacement value.

24 MR. FREY: Which is less than the
25 amount written off -- I'm sorry -- is

1 more than the amount written off?

2 MR. WATT: Yeah. Just to help
3 you, the replacement value is 163.
4 The depreciated value is 81,500, one
5 half of that.

6 MR. FREY: Both of those are in
7 thousands, not --

8 MR. WATT: Yes, yes. I'm sorry.

9 MR. FREY: (Continuing.)

10 Q Okay. Again, though, you wouldn't be
11 the one to tell me why the basis for that claim,
12 right?

13 A No.

14 Q Okay. You've told me now all you
15 personally did that has to do with this case,
16 correct?

17 A I believe so.

18 Q All right. Have you told me now
19 everything you know about the company's position
20 on why it should get some or all of its money?

21 A Can you restate.

22 Q Yeah. I just want to know if
23 there's -- you've told me that you're not the
24 one to read the sublease, for example.

25 A (Witness nods head affirmatively.)

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